

Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, DC 20554

In the Matters of)

Access Charge Reform)

Complete Detariffing for)

Competitive Access Providers and)

Competitive Local Exchange Carriers)

CC Docket No. 96-262

CC Docket No. 97-146

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REPLY COMMENTS OF WORLDCOM, INC.

FEDERAL COMMUNICATIONS COMMISSION
OFFICE OF THE SECRETARY

Comments filed by a number of competitive local exchange carriers ("CLECs") demonstrate that those carriers oppose mandatory detariffing of CLEC access charges primarily to promote a narrow range of business interests, not to protect their access customers from unreasonable and discriminatory charges. Many commenters also mistakenly claim that the Commission should be unconcerned about the level of access charges. In fact, the high level of some CLECs' access charges appears to be unrelated to cost or to the level of charges one would expect to see if buyers invariably had a choice in their access purchasing decisions. While mandatory detariffing of CLEC access charges will not by itself bring all charges to more reasonable levels, it will encourage CLECs to come to the bargaining table. In addition, WorldCom, Inc. ("WorldCom") believes that mandatory detariffing can be implemented in a manner that does not necessarily impose unreasonable transaction costs on CLECs and IXCs.

I. CLEC commenters have not shown that their tariffs protect the purchasers of CLEC access services from unreasonable charges or practices.

Numerous commenters that oppose mandatory detariffing assert that tariffs are necessary to protect CLECs from the allegedly superior bargaining power of IXCs.¹ According to some parties, if CLECs must negotiate with IXCs, CLECs will be coerced into providing access services at unreasonable, below-cost rates.² But tariffs are intended to protect potential buyers, not sellers, from the exercise of market power by the seller.³ Moreover, there is no evidence whatsoever that IXCs could force CLECs to provide service at below-cost rates. Unless tariffs will protect the buyers of CLEC access services, there is no legitimate reason to permit CLECs to continue filing such tariffs.

All IXCs are non-dominant carriers. They operate in a robustly competitive market that includes hundreds of providers. Success in that market depends upon having access to customers. When an end user selects a CLEC as its local service provider, IXCs need that CLEC's access services in order to provide the end user with interexchange services. Only if a CLEC offered access services on terms and conditions that would force the IXC to do business at a loss, could an IXC afford to decline the CLEC's services. Otherwise, the IXC would lose business to other IXCs that are willing to accept the CLEC's services.

The suggestion that IXCs are seeking below-cost access rates is absurd. With respect to

¹ See, e.g., Comments of Focal Communications Corporation at 5-7.

² See, e.g., Joint Comments of e.spire Communications, Inc., Fairpoint Communications Solutions Corp., Intermedia Communications Inc., NewSouth Communications Corp., Nextlink Communications, Inc., and Talk.Com, Inc. at 11.

³ See, e.g., *AT&T v. Central Office Telephone, Inc.*, 524 U.S. 214, 222 (1998).

terminating access, the Commission has already determined “that transport and termination of traffic, whether it originates locally or from a distant exchange, involves the same network functions.”⁴ Thus, terminating access charges could not be below-cost unless they were below the rate charged by the CLEC for transport and termination of local traffic. CLECs that have raised this issue have transport and termination charges that are lower than ILEC access charges.⁵ Accordingly, even if CLEC access rates were reduced to the level of ILEC rates, they would still be “above-cost.” The Commission should find that there is no “bargaining power problem,” and that there is no reason to believe that CLEC access rates higher than corresponding charges for local call completion are “below-cost.”

II. Complete detariffing need not entail insuperable transaction costs.

The only real benefit of CLEC access tariffs to CLEC access customers is that they can obviate negotiations with hundreds of CLECs. However, some parties have exaggerated the volume of negotiations that would be needed. Moreover, WorldCom believes that the Commission could establish a simple non-discrimination rule that would simplify or eliminate many negotiations.

According to ALTS, “without the option of tariffing their access services, each CLEC

⁴ *Implementation of the Local Competition Provisions in the Telecommunications Act of 1996*, CC Docket No. 96-98, First Report and Order (rel. August 8, 1996), ¶ 1033. Since originating and terminating access use the same facilities, it is unlikely that costs of call origination exceed the costs of call termination.

⁵ For example, under Intermedia’s agreement with Bell Atlantic in Massachusetts, Intermedia charges \$0.008/minute for transport and termination of local calls.

will be required to negotiate individual contracts with *every* IXC that is certified to provide service throughout the country.”⁶ In fact, such extensive negotiations would not be required. In addition, the Commission could establish a simple non-discrimination rule that would further reduce the need for negotiations.

IXCs and CLECs typically interconnect indirectly via ILEC access tandems. In most cases, an IXC will order feature group arrangements to an ILEC’s access tandem. When a CLEC interconnects its facilities with that access tandem, the IXC will then have access to the CLEC’s customers, even though the IXC has never ordered feature groups or other access arrangements from the CLEC.

Contrary to the claim made by ALTS, in a detariffed environment CLECs would not need to negotiate individual contracts with *every* IXC in the country. Instead, CLECs would have to negotiate contracts with every IXC that has ordered feature group access to the ILEC access tandem, since those are the IXCs with which the CLEC will be interconnected. As part of its interconnection negotiations with the ILEC, the CLEC could obtain the list of IXCs with feature group access to the tandem. The number of IXCs on that list will likely be far smaller than the universe of IXCs certified to provide service anywhere in the country, since many IXCs do not order feature group access to every access tandem in the country.

The Commission could further simplify the negotiations process by establishing a simple non-discrimination rule. The Commission could prohibit all carriers, including IXCs and CLECs, from refusing to offer or accept access services associated with any access tandem on

⁶ ALTS Comments at 5.

rates, terms, and conditions to which the carrier has already agreed. Thus, where an IXC has ordered feature group arrangements to an ILEC access tandem, the IXC would be prohibited from declining the access services of any CLEC interconnected with the tandem when those services are offered on the same rates, terms, and conditions as the ILEC services that the IXC has already agreed to purchase. CLECs would be prohibited from refusing to offer services on rates, terms, and conditions to which they have agreed with any other IXC. Such a rule is supported by CLECs as well as IXCs.⁷ As WorldCom previously recommended, publication of all access agreements via the Internet would help to prevent discriminatory practices.⁸

If a CLEC is unwilling to offer access services at a level to which IXCs have already agreed with another party, that CLEC would have to negotiate an agreement with those IXCs. As an initial matter, this will mean that CLECs that wish to depart from the level or structure of ILEC rates will have to negotiate openly with all IXCs with feature group access to access tandems with which that CLEC is interconnected.

This simple non-discrimination rule would reduce the transaction costs associated with complete detariffing of CLEC access charges. It would also tend to equalize the access charges of all access providers associated with a particular access tandem. The competition between and among CLECs and ILECs would then center on services offered to end users. Carriers would be less able to use high access charges to cross-subsidize end user services.⁹ Direct competition for

⁷ See, e.g., Comments of Teligent, Inc. at 2; Comments of Sprint Corporation at 4-5.

⁸ WorldCom Comments at 5-6.

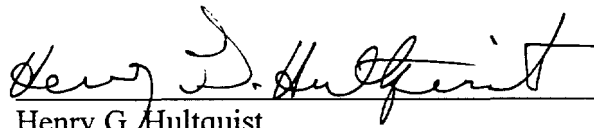
⁹ See, e.g., Comments of Sprint Corporation at 2.

end users is preferable to allowing carriers to cross-subsidize end user offerings with high access charges. Cross subsidies will always distort, not promote competition.

III. Conclusion

Because CLEC access tariffs do not protect the buyers of CLEC access services from the exercise of market power by CLECs, the Commission should not allow CLECs to continue to use such tariffs as a way to force unreasonable access charges on IXC's. The Commission should instead adopt mandatory detariffing of CLEC access services in tandem with the simple non-discrimination rule described in these reply comments. Such a policy would not entail insuperable transaction costs and would promote direct competition among LECs for end user customers.

Respectfully submitted,
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CETIFICATE OF SERVICE

I, Tabitha Broady, do hereby certify that copies of the foregoing Comment of WorldCom, Inc. in the Matters of Access Charge Reform, Complete Detariffing for Competitive Access Providers and Competitive Local Exchange Carriers were sent via first class mail, postage paid, to the following on this 24th day of July 2000.

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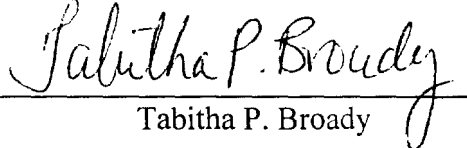
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